

# PATENT COOPERATION TREATY

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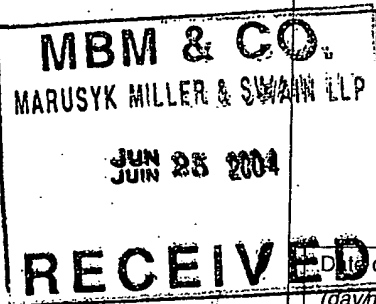
From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

WRITTEN OPINION  
(PCT Rule 66)

To:

MBM & Co.  
Box 809, Station B  
Ottawa, Ontario K1P 5P9  
CANADA



Date of mailing  
(day/month/year)

21.06.2004

Applicant's or agent's file reference  
335-148PCT

REPLY DUE

within 3 month(s)  
from the above date of mailing

International application No.  
PCT/CA 03/01229

International filing date (day/month/year)  
19.08.2003

Priority date (day/month/year)  
19.08.2002

International Patent Classification (IPC) or both national classification and IPC  
A01N43/50

RECEIVED  
DOCKETING

Applicant  
LORUS THERAPEUTICS INC. et al.

CALL UP: Aug 21/04  
DUE DATE: Sept 21/04  
BY: [Signature]

1. This written opinion is the **second** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application
3. The applicant is hereby invited to reply to this opinion.
 

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 19.12.2004

Name and mailing address of the international preliminary examining authority:



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Authorized Officer

Klaver, J

Formalities officer (incl. extension of time limits)

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## I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

**Description, Pages**

1-72 as originally filed

**Claims, Numbers**

1-20 as originally filed

**Drawings, Sheets**

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims
Inventive step (IS)	Claims
Industrial applicability (IA)	Claims

**2. Citations and explanations**

**see separate sheet**

In your letter of 07.06.04 you refer to a set of claims 1- 24 as filed under Art. 19 PCT on April 26, 2004.

However, neither this letter of 26.04.04 nor this set of claims has ever reached the European Patent Office, the International Preliminary Examination Authority.

The last letters received from the Applicant by the EPO were dated 19.03.04 (received on 22.03.04) and 13.04.04 (received 15.04.04).

The first letter concerned the request for a detailed examination of the application and it was indicated in the accompanying Form 401, that it was the wish of the Applicant to start the international preliminary examination on the basis of the set of claims as originally filed, which are claims 1 - 20.

The last letter (dated 13.04.04) contained the cheque with the examination fees and did not refer to any other subject-matter.

There, therefore, was no reason for the International Preliminary Examination Authority to assume that the Written Opinion should be based on a different set of claims than the one on file, which was the set of claims as originally filed.

The Written Opinion of 24.05.04 thus was based on claims 1 - 20 as originally filed.

**Applicant is invited to react to the objections as formulated in that Written Opinion and, if so desired, to submit an amended set of claims on the basis of which the International Preliminary Examination Report (IPER) then will be issued.**